



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 30 2009

REPLY TO THE ATTENTION OF:
LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Thomas R. Wedoff
Vice President - Finance
Clear Lam Packaging, Inc.
1950 Pratt Boulevard
Elk Grove Village, Illinois 60007

Re: Consent Agreement and Final Order
Clear Lam Packaging, Inc.
Docket No: RCRA-05-2009-0025

Dear Mr. Wedoff:

Enclosed, please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on NOV 30 2009 with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$20,750 in the manner prescribed in paragraphs 14 -18 of the CAFO and reference all checks with the number BD 2751042R006 and docket number RCRA-05-2009-0025. Your payment is due within thirty (30) calendar days of the effective date of the CAFO. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script, reading "Willie H. Harris".

Willie H. Harris, P.E.
Chief, RCRA Branch
Land and Chemicals Division

Enclosures

cc: Jaqueline M. Vidmar, Seyfarth Shaw LLP (w/CAFO)

bcc: Tamara Carnovsky, ORC (C-14J)(w/CAFO)
Jamie Paulin, LR-8J (w/CAFO)
Section Copy (w/CAFO)
Official File (w/CAFO)

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5, brought this administrative action seeking a civil penalty under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a).
2. On September 30, 2009, U.S. EPA filed its Complaint in this action against Respondent Clear Lam Packaging, Inc. (Respondent).
3. The Complaint alleges that Respondent failed to comply with certain conditions provided by 35 IAC § 722.134(a) [40 C.F.R. § 262.34(a)] that must be satisfied before a generator of hazardous waste may qualify for an exemption from the general RCRA requirement to obtain a permit or interim status. Specifically, Complainant alleges that Respondent accumulated hazardous waste for more than 90 days, and stored hazardous waste in a container without a label and the date of accumulation. As a result of Respondent's alleged failure to comply with these conditions, Respondent was required to obtain a permit in order to treat, store,

or dispose of hazardous waste in accordance with 35 IAC § 703.121, 35 IAC § 702.120, and 35 IAC § 702.123. The Complaint alleges that Respondent failed to obtain a permit or interim status; therefore, Respondent's treatment, storage, or disposal of hazardous waste violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the permit requirements of 35 IAC § 703.121, 35 IAC § 702.120, and 35 IAC § 702.123 [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

4. The Complaint also alleges that Respondent was in violation of the following requirements for owners and operators of hazardous waste storage facilities:

- a. 35 IAC § 724.135 [40 C.F.R. § 264.35] by storing hazardous waste containers without aisle space in the hazardous waste storage area;
- b. 35 IAC § 724.273(a) [40 CFR § 264.173(a)] by failing to keep containers of hazardous waste closed during storage;
- c. 35 IAC §§ 724.116(a), (b) and (c) [40 C.F.R. §§ 264.16(a), (b) and (c)] by failing to provide adequate classroom instruction or on-the-job training, and failing to provide initial training or annual review of the initial training;
- d. 35 IAC §§ 724.116(d)(2), (3) and (4) [40 C.F.R. §§ 264.16(d)(2), (3) and (4)] by failing to maintain records that provided a written job description for each position related to hazardous waste management, and the type and amount of both introductory and continuing training to be given to each employee filling a hazardous waste management position, and documentation that the training or job experience required under 35 IAC §§ 724.116(a), (b) and (c) had been given to, and completed by, facility personnel; and,
- e. 35 IAC §§ 724.152(c), (d) and (e) [40 C.F.R. §§ 264.52(c), (d) and (e)] by failing to include within Respondent's contingency plan a description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and local emergency response teams to coordinate emergency services; the current emergency coordinator's name, office and home phone numbers; and a list of all the emergency equipment at the facility, and the location and capabilities of the emergency equipment.

5. Respondent's Answer was due on or before November 4, 2009.

6. On October 21, 2009, Respondent filed an Agreed Motion for Extension to File an Answer (Motion) on or before November 30, 2009.

7. On October 22, 2009, U.S. EPA's Regional Judicial Officer granted Respondent's Motion.

8. Before the filing of an Answer, the parties agreed to the settlement of this matter, and the entry of this Consent Agreement and Final Order (CAFO)

Stipulations

9. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

10. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. § 6922 and 35 IAC § 722.134(a), 35 IAC §§ 724.116(a), (b) and (c), 35 IAC §§ 274.116(d)(2), (3) and (4), and 35 IAC §§ 724.152(c), (d) and (e) [40 C.F.R. § 262.34(a), 40 C.F.R. §§ 264.16(a), (b) and (c), 40 C.F.R. §§ 264.16(d)(2), (3) and (4), and 40 C.F.R. §§ 264.52(c), (d) and (e)].

12. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

13. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

Civil Penalty

14. In consideration of Respondent's agreement to perform a Supplemental Environmental Project (SEP) and other factors as justice may require, Complainant agrees to mitigate the proposed penalty of \$88,792 to \$20,750.

15. Within 30 days after the effective date of this CAFO, Respondent must pay a \$20,750 civil penalty for the RCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check must state the case name, the docket number of this CAFO and the billing document number.

16. A transmittal letter, stating the case name, Respondent's complete address, the case docket number and the billing document number must accompany the payment.

Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Jamie Paulin (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Tamara Carnovsky (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

17. This civil penalty is not deductible for federal tax purposes.

18. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1).

Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

Supplemental Environmental Project

19. Respondent must complete a SEP designed to protect the environment and public health by purchasing, installing and operating a closed-loop solvent recovery system which will allow Respondent to reclaim and recycle approximately 100,000 gallons of hazardous solvent waste (D001, F003 and F005) it currently ships offsite annually. The SEP will also decrease the volume of hazardous waste stored by Respondent at its Elk Grove Village facility.

20. At its Elk Grove Village, Illinois facility, Respondent must complete the SEP as follows:

- a. By December 20, 2009, Respondent must purchase all of the equipment necessary to install a closed-loop solvent recovery system.
- b. By May 1, 2010, Respondent must install and begin operating the closed-loop solvent recovery system.

See attached Scope of Work as Exhibit A for a detailed description of equipment, installation and implementation of the SEP.

21. Respondent must spend at least \$221,000 to purchase and operate the closed-loop solvent recovery system for five years in accordance with the specifications set forth in the Scope of Work.

22. Respondent must continuously use or operate the closed-loop solvent recovery system, except for the temporary shut-down of the system to conduct repair or routine maintenance, for at least five years from the date Respondent begins operating the system.

23. Respondent certifies that it is not required to perform or develop the SEP by any

law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

24. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

25. Respondent must maintain for a period of three years after the SEP Completion Report is approved, copies of the underlying research and data for all reports submitted to U.S. EPA according to this CAFO. Respondent must provide the documentation of any underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.

26. Respondent must submit an Installation Completion Report by May 31, 2010. The Installation Completion Report must contain the following information:

- a. the date(s) the solvent recovery closed-loop system was installed and began operating;
- b. a description of any operating problems and the actions taken to correct the problems associated with SEP; and,
- c. itemized costs of goods and services used to purchase, install and begin operating the closed-loop recovery system documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services.

27. Respondent must submit Periodic Reports on the first, second, third, and fourth anniversary of the effective date of this CAFO. Each Periodic Report must contain the following information:

- a. all activities that have been undertaken and completed during the reporting year;
- b. a schedule of all activities for the next year of SEP implementation; and,

- c. an evaluation of the SEP as related to the objectives identified in Exhibit A, any SEP improvements or revisions, and how any findings or action plans were communicated to affected employees, on-site service providers, and contractors.

28. Respondent must submit a SEP Completion Report within thirty calendar days after completion of the SEP. The SEP will be considered completed after the closed-loop solvent recovery system has been operational for five years. The SEP Completion Report must contain the following information:

- a. detailed description of the SEP as completed;
- b. description of any operating problems and the actions taken to correct the problems;
- c. itemized costs of goods and services used to complete the SEP, documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

29. In determining the costs associated with the implementation of this SEP and reported in the Installation Completion Report and SEP Completion Report, Respondent must exclude all costs necessary to assure compliance with statutory, regulatory, or permit requirements.

30. Respondent must submit all notices and reports required by this CAFO by first class mail to Jamie Paulin at the address in paragraph 16 above.

31. In each report that Respondent submits as provided by this CAFO, Respondent must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

32. Following receipt of the SEP completion report described in paragraph 28, above, U.S. EPA must notify Respondent in writing that:

- a. Respondent has satisfactorily completed the SEP and the SEP report.
- b. There are deficiencies in the SEP as completed, or in a SEP report, and U.S. EPA will give Respondent thirty days to correct the deficiencies; or
- c. Respondent has not satisfactorily completed the SEP or a SEP report and U.S. EPA will seek stipulated penalties under paragraph 34.

33. If U.S. EPA determines that there are deficiencies in the SEP as completed, or in a SEP report, and notifies Respondent that the deficiencies must be corrected in 30 days as provided by paragraph 32.b above, Respondent may object in writing to the deficiency notice within ten days of its receipt. The parties will have thirty days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements to complete the SEP that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 34, below.

34. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to this CAFO, Respondent must pay a stipulated penalty of **sixty two thousand two hundred fifty dollars (\$62,250)**.
- b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent: (i) made good faith and timely efforts to complete

the SEP; and (ii) certified, with supporting documents, that it spent at least 90 percent of the required amount (*i.e.* 90% of \$221,000) on the SEP, Respondent will not be liable for any stipulated penalty.

c. If Respondent satisfactorily completed the SEP, but spent less than 90 percent of the required amount on the SEP, Respondent must pay a stipulated penalty of **eleven thousand two hundred five dollars (\$11,205)**.

d. If Respondent failed to timely submit the SEP Completion Report required by paragraph 28 above, Respondent must pay a stipulated penalty of \$200.00 for each day after the report was due until Respondent submits the report.

e. If Respondent failed to timely submit any other reports, including the Installation Completion Report or Periodic Reports required by paragraphs 26 and 27 above, Respondent must pay a stipulated penalty of \$100.00 for each day after the report was due until Respondent submits the report.

35. The U.S. EPA's determination of whether Respondent satisfactorily completed the SEP will bind Respondent.

36. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraphs 15 and 16, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

37. Any public statement that Respondent makes referring to the SEP must include the following language, "Clear Lam Packaging, Inc. undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Clear Lam Packaging, Inc. for violations of Section 3008(a) of RCRA and Title 35 of the Illinois Administrative Code."

38. The attached Scope of Work may be modified in writing by the Respondent and subject to the approval by U.S. EPA without amendment to this CAFO as necessary to ensure the effective implementation of this SEP.

39. For federal income tax purposes, Respondent will neither capitalize into inventory

or basis, nor deduct any costs or expenditures incurred in performing the SEP.

40. Force Majeure

a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this CAFO, Respondent must notify Complainant in writing not more than 10 days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice must describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this CAFO based on such incident.

b. If the parties agree that the delay or anticipated delay in compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

c. In the event that the EPA does not agree that a delay in achieving compliance with the requirements of this CAFO has been or will be caused by circumstances beyond the control of the Respondent, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances entirely beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, in any event, be

a basis for changes in this CAFO or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

General Provisions

41. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

42. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

43. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

44. The terms of this CAFO bind Respondent, its successors, and assigns.

45. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

46. Each party agrees to bear its own costs and attorney's fees in this action.

47. This CAFO constitutes the entire agreement between the parties.

In the Matter of:
Clear Lam Packaging, Inc.
Docket No.

Clear Lam Packaging, Inc, Respondent

11/17/09
Date

Thomas R. Wedoff
Thomas R. Wedoff
Corporate Officer and Vice-President
Flexible Packaging Division
Clear Lam Packaging, Inc.

United States Environmental Protection Agency, Complainant

11-25-09
Date

Margaret M. Guerriero
for Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:

Clear Lam Packaging, Inc.

Docket No. RCRA-05-2009-0025

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

11/25/09
Date

Matt W. Karalich
for
Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Exhibit A - SEP Scope of Work

Clear Lam Packaging, Inc. Closed-Loop Solvent Recovery System

I. Objectives:

1. Clear Lam Packaging, Inc. (Clear Lam) will develop, implement and maintain a Closed-Loop Solvent Recovery System at the Clear Lam facility located in Elk Grove Village, Illinois;
2. Clear Lam will reclaim and recycle approximately 100,000 gallons of solvent hazardous waste per year; and,
3. Clear Lam will decrease the volume of hazardous waste it stores on site and the number of 55-gallon containers storing hazardous waste at its facility by approximately 70%.

II. SEP Description:

1. Installation and use of a Refurbished DW Renzmann Roto-2 Distillation Unit, a 1000 gallon capacity Wash Solvent Surge Tank, a 720 gallon per 24 hour capacity Solvent Distillation Unit, a 1000 gallon capacity Clean Solvent Holding Tank and connecting piping and associated equipment between each unit or tank and the printing process in order to implement a Closed-Loop Solvent Recovery System.
 - a. The wash-up solvent generated by the three printing presses, that have a capacity to generate an average of 360 gallons of wash-up solvent in 24 hours, will be transferred to the Wash Solvent Surge Tank via a closed-loop system.
 - b. The wash solvent stored in the Wash Solvent Surge Tank will be transferred to the Solvent Distillation Unit via a closed-loop system. The Solvent Distillation Unit will operate on an on-off 4 hour cycle and process approximately 175 gallons of clean solvent every 4 hours.
 - c. The clean solvent from the Solvent Distillation Unit will be transferred to the Clean Solvent Holding Tank via a closed-loop system.
 - d. The clean solvent from the Clean Solvent Holding Tank will be transferred to the printing presses via a closed-loop system and used for wash-up.
 - e. The still bottoms, with a characteristic hazardous waste code of D001, from the Solvent Distillation Unit will be removed and stored in 55-gallon containers as hazardous waste in Clear Lam's hazardous waste storage area for no more than 90 days and in compliance with the applicable large quantity generator conditions under 35 IAC § 722.134(a) [40 C.F.R. § 262.34(a)].

2. Basic Components of the Closed-Loop Solvent Recovery System:

- a. Vessel – mild steel.
- b. Condenser and Clean Solvent Container – stainless steel.
- c. Wash Solvent Surge Tank – 1000 gallon capacity.
- d. Solvent Distillation Unit – 720 gallon capacity per 24 hour.
- e. Clean Solvent Holding Tank – 1000 gallon capacity.
- f. Piping and associated equipment to operate a closed-loop system between each tank or unit and the printing presses.

3. Description of Parts Required for Refurbished DW Renzmann Roto-2 Distillation Unit:

- a. Liquid Ring Vacuum System – reduces cook down time at end of distillation process, or for distilling of solvents with a boiling point above 149°C (300°F).
- b. Vacuum Filling System – allows unit to fill via vacuum.
- c. Nitrocellulose Safety Package – allows unit to safely process waste containing nitrocellulose.
- d. Auto-Fill System – allows for continuous operation.
- e. Explosion Proof Light – allows operator to illuminate vessel interior for in process viewing via sight glass.
- f. Clean Solvent Container – stores clean solvent produced in distillation process and automatically transfers clean solvent to remotely located storage container. Constructed of stainless steel with pump/motor, float switch, removable lid with inspection opening. (Discharge and bleeding. 130 gallon capacity.)

4. Installation of Refurbished DW Renzmann Roto-2 Distillation Unit:

- a. Receipt, unloading, uncrating and placement of the delivered equipment at the desired location.
- b. Mounting of the main electrical control panel in a non-hazardous area.
- c. Electrical wiring, both control and power, between the main electrical control panel and the equipment.
- d. Connection of electrical power supply to control panel.
- e. Mounting and alignment of electrical motors to pumps and/or exhaust ventilators, as applicable.
- f. Cooling water supply and return lines.
- g. Steam supply and condensate return or thermal oil supply and return lines, as applicable.
- h. Installation of exhaust ventilator and duct work, if supplied.
- i. Clean and contaminated solvent lines, as applicable.

5. Possible Commissioning of the Refurbished DW Renzmann Roto-2 Distillation Unit.

- a. Checking the installation after completion by buyer.

- b. Test run of the equipment.
- c. Instruction of personnel to work with the equipment.
- d. Instruction of personnel to maintain the equipment.

CASE NAME: Clear Lam Packaging, Inc.
DOCKET NO: RCRA-05-2009-0025

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following:

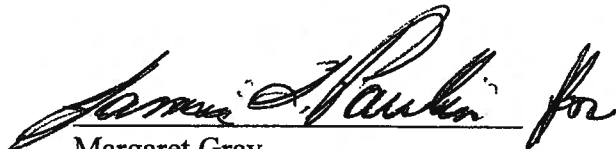
Mr. Thomas R. Wedoff
Vice President - Finance
Clear Lam Packaging, Inc.
1950 Pratt Boulevard
Elk Grove Village, Illinois 60007

Certified Mail #

Ms. Jaqueline M. Vidmar
Seyfarth Shaw LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603

Certified Mail #

Dated: 11/30, 2009



Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency

Region V
Land and Chemicals Division LR-8J
RCRA Branch
77 W. Jackson Blvd, Chicago, IL 60604-3590

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